



Florida Department of Environmental Protection

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Charlie Crist
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Secretary

September 10, 2008

The Honorable Alcee L. Hastings
Congressman, District 23
2353 Rayburn House Office Building
Washington, DC 20515

The Honorable Allen F. Boyd, Jr.
Congressman, District 2
1227 Longworth House Office Building
Washington, DC 20515

Dear Congressman Hastings and Congressman Boyd:

Thank you for the recent opportunity on July 30, 2008, to update Florida's Congressional Delegation on the State's historic efforts to acquire the land and assets of the United States Sugar Corporation (U.S. Sugar Corp.) for Everglades restoration. The State of Florida recognizes the enormous magnitude and responsibility associated with this undertaking, as well as the importance of this potential acquisition for the environment and economy of South Florida. Under the leadership of Governor Crist, Florida is breaking new ground for Everglades restoration, and we appreciate the interest the Delegation has for this significant action.

Below are responses to your questions that were mailed after our meeting. We apologize for the extended delay that resulted in part from Florida's emergency preparations and responses to Tropical Storm Fay, Hurricane Ike, and, to a lesser degree, Hurricane Gustav. Wherever possible, we have provided as much information below as is available at this stage in the complex negotiations. Other questions can be more fully answered should Florida be successful in securing a fair agreement on behalf of the taxpayers, and as restoration projects are developed, vetted, and implemented through the public process. Also, for more information on the negotiations, you may go to www.sfwmd.gov.

What is the precise mission of this land acquisition deal?

On June 30, 2008, the South Florida Water Management District (SFWMD) and U.S. Sugar Corp. commenced negotiations to explore a potential agreement to bring agricultural land into public ownership to help revive, restore, and preserve America's Everglades. The two parties signed a legally non-binding "Statement of Principles," providing the general framework for negotiating the purchase of the company's land and assets. Acquiring this strategically located land south of Lake Okeechobee will provide the State a previously unanticipated opportunity to restore the southern Everglades, manage Lake Okeechobee within an ecologically desirable range, and protect the St. Lucie and Caloosahatchee rivers and estuaries. "Backpumping" that was at times necessary in the past will be negated. Restoration planning goals include creating

approximately 1 million acre-feet of water storage and an additional 1 million acre-feet of water quality treatment on an average annual basis. Therefore, constructing a highly managed system of reservoirs and treatment facilities could significantly improve the quality, flow, timing, and delivery of water to America's Everglades and virtually eliminate harmful discharges of freshwater to the St. Lucie and Caloosahatchee estuaries. The SFWMD also is evaluating restoration concepts that would use available U.S. Sugar Corp. lands to increase storage, treatment, and restoration in other watersheds, including the C-139 basin, the S-4 basin, and Lake Hicpochee as the headwaters of the Caloosahatchee River.

Who was consulted in the development of this proposal?

Staff from the SFWMD, Florida Department of Environmental Protection (DEP), the Executive Office of the Governor, and U.S. Sugar Corp. undertook exploratory discussions to develop the legally non-binding "Statement of Principles."

What is your yearly plan for planning and design, land maintenance and preparation post-acquisition? If it is not available now, when will the details be available?

If and when a contract is approved by the Governing Board of the SFWMD, the State and SFWMD will begin developing detailed plans for the land in coordination with restoration partners and interested groups through an open public planning process. Project planning and design will give full consideration to the new flexibility and opportunities made available by this land. Our collective goal is to ensure that the environment receives the maximum benefits possible while supporting continued regional agriculture and the local economies. Options will be presented to the SFWMD's Governing Board for consideration and public discussion. Estimating the cost and financing for project design, construction, and operation and maintenance will begin once a project footprint and the components for storage and treatment are better determined in the months and years ahead.

Are any outside parties providing technical or other assistance in determining how to best utilize the U.S. Sugar land and other assets?

Yes. The SFWMD has retained financial advisors, appraisers, environmental consultants, and outside counsel with specific expertise in corporate acquisitions to assist in negotiating a purchase agreement for consideration by the SFWMD Governing Board. Also, there have been exploratory meetings with agricultural interests regarding potential uses of those assets not needed for restoration purposes, particularly for continued agricultural operations.

How will the State determine the best possible footprint of the land deal to be acquired? Will any of the land still be operational for sugar or citrus production or research capabilities? If the State intends to return some of the land to private entities for agriculture production, what is the role of the Florida Department of Agriculture and Consumer Services?

The U.S. Sugar Corp. owns 187,000 acres of agricultural land. The SFWMD will be evaluating the restoration potential of the available acreage along with the costs and benefits of viable options and footprints, which will be reviewed and discussed through public workshops.

Plans to use the land will give full consideration to the restoration opportunities, along with opportunities to support continued agriculture in the region and economic diversification, where possible. It is the intent of the State of Florida and the strong belief of Governor Crist to support the economic viability of the Glades communities and to support continued agriculture in the region where viable, including citrus, sugar cane, vegetable growing, and green energy production. The SFWMD will work closely with the DEP, Florida Department of Agriculture and Consumer Services, landowners, the Glades region and affected communities, and the public to achieve these goals.

In order to acquire the "missing link" of real estate, it seems apparent that the State will need to either swap or purchase land from Florida Crystals. What discussions have occurred to date with representatives of Florida Crystals? Will the State finalize its land-swap plans with Florida Crystals before negotiations for the U.S. Sugar deal are finished? What is the estimated cost of this land swap?

The SFWMD has discussed the potential for land exchanges with Florida Crystals. The SFWMD also has discussed proposals with producers of green energy and other agricultural interests. Entering into land swaps with Florida Crystals and/or other property owners in the Everglades Agricultural Area to obtain contiguous property presents one option for restoration. Another viable restoration project also is achievable utilizing only the U.S. Sugar Corp. property. The State's intent is to negotiate agreements that are fiscally responsible to the taxpayers. The timing and cost of any third-party exchanges have not yet been determined. It remains an option to negotiate and execute third-party asset transactions and/or land exchanges following the finalization of a contract with the U.S. Sugar Corp., as would be the case for any similar situation.

The decision in *Miccosukee Tribe & Friends of the Everglades v. U.S. EPA and the State of Florida Department of Environmental Protection* enjoins the Florida Department of Environmental Protection (DEP) from granting any permits for discharges in the Everglades Protection Area. How will this impact the State's ability to deal with water quality issues from a regulatory standpoint? Will this in any manner hamper the ongoing negotiations with U.S. Sugar?

This court decision does not affect the negotiations with the U.S. Sugar Corp. Judge Gold upheld DEP's numeric criterion of 10 parts per billion for phosphorus. Further, the State was pleased with Judge Gold's decision because his ruling agreed with the measurement methodology that ensures the nutrient criterion is protective of the Everglades. In addition, the specific permitting provisions [the moderating provisions from 2003], which were of primary concern to the Judge, have never been utilized in any DEP permit issued for Everglades restoration projects. Beyond moderating provisions, DEP has a number of regulatory tools at its disposal to regulate discharges to the Everglades, including variances and compliance schedules that are available through the Clean Water Act where technological limitations constrain achievement of water quality criteria. The acquisition of agricultural land and the ability to construct additional treatment areas will significantly enhance the State's ability to treat water and achieve water quality targets.

What is the total cost of the project? The Florida Legislature struggled this fiscal year with a \$2 billion gap in state revenue and had to cut several domestic funding programs including education programs. Given the current economic environment, how will this impact taxpayers and specific counties? How will you pay for this without raising taxes?

The acquisition and final purchase price is subject to independent appraisals, which will be performed by highly qualified appraisers. Further, a fairness opinion will be sought to provide the public with the necessary assurances that the purchase price is fair and reasonable. Subject to independent appraisals and approval by the SFWMD's Governing Board, water managers will use Certificates of Participation (COPs) to finance the acquisition. The SFWMD has considerable experience in innovative financing strategies. In December 2007, the SFWMD was recognized as the nation's most innovative municipal bond issuer and awarded The Bond Buyer's Deal of the Year Award for its \$546-million issue of COPs to fund Everglades restoration projects. The SFWMD issued AAA-rated insured bonds in November 2006 to jump-start construction of a suite of restoration projects, referred to as "Acceler8." The SFWMD's COPs were the first-ever to be issued for a natural resources project in the United States. The SFWMD also will be able to achieve the acquisition without raising taxes, and no state revenues will be utilized to make this acquisition. Through sound financial management, the SFWMD has dedicated environmental funds available for investing in land and construction needed for restoration. That means the funding source is based on a reallocation of SFWMD revenue already identified for Everglades restoration.

What are the long-term operations and maintenance costs of implementing this deal (labor, infrastructure, etc.)?

Operation and maintenance costs will be determined once a project is identified and planning and design begins.

To what extent is the State coordinating with the Federal government regarding this deal? How are your partners at the Department of Interior and the Army Corps of Engineers being updated throughout the ongoing negotiations? How will the State involve Federal partners in determining the optimal area to acquire?

The SFWMD has updated its federal partners on the potential acquisition. Several federal agency leaders also were present at the Governor's announcement to witness the signing of the "Statement of Principles" that provided the general framework for the negotiations. Because this is a State negotiation and a District-funded project, the federal government is not a party to the negotiations. However, the State will continue to keep federal agencies apprised. Most importantly, federal agencies must be involved in the development of any restoration project associated with this acquisition through the public planning process.

You mentioned at the Delegation meeting that you will tailor your land acquisition plans to accommodate the eventual site of the proposed Inland Port. Are you confident you can do this without compromising the eventual water storage and water quality efforts you envision? Are you working with those who are planning the Inland Port to minimize any possible conflicts?

Five sites were identified as "viable" by the Port of Palm Beach as potential sites for a proposed inland port in the Port's strategic planning the past two years. A specific location has not yet been selected by the Port of Palm Beach. The State and the SFWMD recognize the potential significance of an inland port facility in supporting, enhancing, and diversifying the economy of the region. We are monitoring the Port's progress as it makes a decision about a site to pursue in the months and years ahead. We will work closely with the Port through the public process to ensure the Port's plans are consistent with Everglades restoration in the region.

Members of Congress were only informed of the land deal a short time prior to the announcement of the Statement of Principles. Since the negotiations were announced on June 24, 2008, with few exceptions, much of our knowledge regarding the details surrounding the deal has come from media reports. How will the State ensure that Members of Congress and other elected officials are continually updated on the details of the negotiations? Who will be our point of contact during the negotiations?

The State and SFWMD are committed to keeping members of the Florida delegation informed as new developments occur. I stand ready, along with my counterparts at the Governor's Office of Tourism, Trade and Economic Development (OTTED), SFWMD, and the State of Florida Washington Office, to ensure our delegation and other elected officials are updated in a timely manner.

Soon you will be making a determination as to what the final acquisition footprint will be. That footprint will help to determine what can be done on water storage, water quality and in other restoration areas. This may impact some of the Comprehensive Everglades Restoration Plan (CERP) projects that will be authorized in the future. With that in mind, what are your intentions or plans to consult with the relevant Federal agencies involved in CERP when you determine the final footprint of the U.S. Sugar purchase?

The State and SFWMD expect that using land for storage and treatment in the Everglades Agricultural Area will build upon and enhance the 30-year, state-federal Comprehensive Everglades Restoration Plan (CERP) that was signed by the state and federal government in 2000 to commence what was designed to be a 50-50 partnership. It is recognized that the vast size and strategic location of the land may present opportunities for additional storage and treatment not considered feasible or achievable when CERP was conceived. This could, in turn, lead to modifications of components contained in CERP. The State, SFWMD, and federal agencies absolutely will need to work closely on identifying any modifications to CERP components. The federal partners will be fully engaged in the public planning process associated with any restoration projects on the acquired agricultural lands. The State and federal partners have many existing avenues for discussing and developing shared restoration goals, including the South Florida Ecosystem Restoration Task Force and Working Group, the SFWMD's Water Resources Advisory Commission, and the U.S. Army Corps of Engineers Quality Review Board. However, it is important to note that federal projects remain pending - Modified Water Deliveries among them - that require the attention of Congress and the federal agencies. We truly hope that the negotiations and the potential acquisition will not

delay these other critical activities that have been ongoing and that will continue to require enormous momentum and focus.

How can Florida's Congressional Delegation be more involved in the process throughout the ongoing negotiations?

The State and SFWMD are committed to keeping elected officials informed as developments occur. If negotiations are successful, the SFWMD will present its Governing Board with a proposed contract detailing the terms and conditions of the acquisition. The Governing Board will seek public input on the contract, and the State and SFWMD will ensure elected officials are comprehensively informed on the terms and conditions. When negotiations conclude and at the point that a contract is presented to the SFWMD's Governing Board for consideration, information such as appraisals and environmental assessments, as completed, will be available for full public review. Also, the SFWMD will hold public meetings to discuss and review the due diligence results before any closing. If the purchase is finalized, then the public, local, state, and federal elected leaders, together with agricultural, environmental, community, and government stakeholders, will participate in a public process to ensure comments are fully considered in the future restoration planning.

How will this impact the State-Federal partnership? Can you affirm that the State remains committed to its role in the Federal-State partnership which is the very foundation of CERP? Will the State be using funds for the land acquisition for satisfying its 50-50 cost-share responsibilities under CERP?

The State of Florida and the SFWMD remain fully committed to achieving its obligations under CERP. Since the passage of the 2000 Water Resources Development Act (WRDA), which authorized CERP, the State and SFWMD have invested \$2.4 billion to acquire land and construct restoration projects, far exceeding its share of the 50-50 cost-share partnership over the first eight years of the partnership. Florida has acquired close to 225,000 acres of land toward CERP - 58 percent of the real estate needed to complete the entire restoration. While project construction is not the primary responsibility of the State under CERP, Florida is designing and initiated construction on a number of CERP projects to move restoration ahead in the absence of federal funding for construction by the U.S. Army Corps of Engineers. Separate and apart from the SFWMD's financial commitment to this particular acquisition, this year's state budget included another \$50 million toward the restoration of the Everglades and Lake Okeechobee along with \$36.75 million for land acquisition for CERP projects. In addition, the State and SFWMD have invested a further \$1.8 billion to improve water quality in the Everglades. No State funds are being utilized for this particular land acquisition, and these lands currently do not qualify for satisfying the local sponsor's 50-50 cost-share CERP responsibilities. This acquisition by the State provides the federal government with opportunities relative to the CERP projects. With planning and design complete, and some construction initiated by the SFWMD on certain CERP projects, the U.S. Army Corps of Engineers has an opportunity to assume its construction responsibilities on select projects, as originally envisioned in CERP.

In addition, this acquisition further underscores the importance of the federal government's role in constructing and completing the Modified Water Deliveries project (Tamiami Trail), which was identified as a foundation project vital for the restoration of Everglades National Park and Florida Bay and authorized by the United States Congress close to two decades ago. It remains a full federal responsibility.

Will CERP/ACCELER8 need to be amended to accommodate the land acquisition? If so, which of the 68 CERP projects will need to be changed/removed/added? Which of any of the authorized projects in the Water Resources Development Act of 2007 will need to be altered?

In 2004, with federal funding for CERP stalled, the SFWMD moved forward under its own initiative to start a suite of key restoration projects, known as "Acceler8," most of which were identified as priorities by the U.S. Congress. Today, acquiring prized and vast expanses of agricultural lands as represented in the U.S. Sugar Corp. negotiations represents a once-in-a-lifetime opportunity not previously anticipated. To accomplish the acquisition, the SFWMD will modify construction schedules for the expedited projects based on restoration priorities. The SFWMD will present to the Governing Board for consideration and public discussion options for the future use of the agricultural lands, funding considerations, and the effects of the purchase on the schedule and completion of expedited projects. It is anticipated, however, that funds may be available to achieve full or partial completion of specific and strategically important expedited projects.

With planning and design completed by the SFWMD at its own expense, construction could be assumed by the U.S. Army Corps of Engineers on some projects, as originally envisioned in CERP. While the State is pleased with the Congress's significant action to authorize projects in WRDA 2007 – the first such authorizations in seven years – federal funding toward construction of these projects is critical to their success.

As Carol Wehle indicated in her presentation to the Delegation, the SFWMD will postpone for at least two years and possibly reduce the size of the Indian River Lagoon's C-44 reservoir project. To what extent have you consulted with the Army Corps of Engineers on the planned change in this project? If activity is stopped on C-44, how will reclaimed water be moved south?

Because of the size and significance of this acquisition, numerous reasonable questions are being asked about the restoration opportunities offered by the purchase and its potential effects on existing restoration project planning and construction.

It is reasonable to suggest that the size, scope, and restoration goals of certain CERP project components could be re-evaluated, in order to provide an associated reduction in cost based on the opportunity to construct reservoirs and treatment areas on the U.S. Sugar Corp. lands. At this point, however, no decisions have been made by the SFWMD concerning the construction of expedited projects. Reducing the size of the C-44 reservoir and stormwater treatment area is not anticipated since the reservoir was sized to store local basin runoff and

this project is still needed even with the potential U.S. Sugar Corp. acquisition. Construction, however, may need to be phased due to federal, state, and SFWMD budget limitations. As stated previously, the SFWMD will present to its Governing Board for consideration and public discussion options for the future use of the agricultural lands, funding considerations, and the effect of the purchase on the schedule and completion of expedited projects. It is anticipated that funds may be available to achieve full or partial completion of specific and strategically important expedited projects. With planning and design complete on other projects, construction could be assumed by the U.S. Army Corps of Engineers, as originally envisioned in CERP. All discussions will involve and be coordinated with the U.S. Army Corps of Engineers and will seek the input of local communities and elected leaders.

What assurances can you give that the State does not intend for this proposed land acquisition to result in a delay of CERP implementation of Indian River Lagoon and the Picayune Strand?

In the absence of federal funding, the State and SFWMD already have made considerable progress acquiring land and moving construction ahead for the Picayune Strand and Indian River Lagoon restorations. The State has met its full commitment under CERP for the Picayune restoration project – investing more than \$125 million to place in public ownership 54,310 acres. This represents 99 percent of the land required to complete the project. Above and beyond the land acquisition, the State was instrumental in kick-starting and funding construction for this project ahead of the CERP schedule. Because of the State's initiative to expedite restoration of Picayune Strand, more than seven miles of canal have been backfilled and already the natural system is recovering, with 13,000 acres of restored area to date and documented environmental benefits. The State also has completed 100 percent design plans for the project's restoration elements and pump stations, along with required permits.

For the Indian River Lagoon restoration, the State together with the SFWMD and Martin County have invested \$440 million to acquire more than 50,000 acres of land needed for the restoration. This represents 100 percent of the land needed for the C-44 reservoir and 84 percent of the land needed to construct the C-23 and C-24 reservoirs. In addition to acquiring the land, the SFWMD also has invested \$33.7 million to design and begin construction of IRL-South project components. Acquiring the remaining lands for these projects and supporting the Corps of Engineers in its efforts remain State and local priorities.

On both of these projects, achieving the federal CERP cost-share will go a long way to ensuring these restoration projects are completed on schedule.

Can the CERP Adaptive Assessment program accommodate changes that should be made to CERP projects?

Yes. CERP was designed as an adaptable, dynamic program built to adapt to changes brought on by emerging technologies and new opportunities.

What will the federal responsibilities for this land be? How will the Army Corps of Engineers fulfill its mandate on existing projects?

Federal agencies will have a consultative and regulatory role in the development and permitting of any restoration project for the acquired footprint. The U.S. Army Corps of Engineers is required to report to the Congress on its progress in fulfilling its mandates.

The loss of U.S. Sugar in the Glades area will mean a loss of 1,700 jobs for the community. What will the short-term and long-term impacts of this deal be on the Glades' lakeside communities that depend on the U.S. Sugar for their economic viability?

Projections on job loss at this point are purely speculative. One of OTTED's first steps as a part of the economic transition activities associated with the U.S. Sugar Corp. acquisition, and through its long-standing Rural Economic Development Initiative (REDI), is to work with the Glades communities to assist with comprehensive, responsive, and accurate evaluation of this transaction's effect on agricultural production, the local workforce, and the local and state economy. While there is full recognition that the economic landscape of the Glades area may be altered because of this transaction, projections would be speculative and based on what can only be a worst-case scenario.

REDI (Section 288.0656, Florida Statutes) is an initiative involving more than 20 state and regional agencies. REDI has been and remains the primary vehicle to assist the communities affected by this transaction during the transition and afterward.

Along with sustained agriculture in the region, it is anticipated that the acquisition may present new economic possibilities, including green energy production, new industries, and greater nature-based tourism.

Completing a comprehensive economic impact study based on the actual outcome of the transaction, rather than on assumptions, will enable OTTED and local communities to address not only the economic effects but also the fiscal effects on local governments and school districts.

What is being done to engage the regional interests in identifying collateral issues/impacts that will or may result from the acquisition?

The OTTED's REDI staff facilitated a series of community discussions in the affected communities in August. These initial meetings took place in Clewiston, LaBelle, Belle Glade, and Moore Haven, and presented local residents, communities, and interested parties with opportunities to provide input and share ideas on a collaborative and viable economic transition for the region.

One of the most significant limitations placed on the Glades cities has been limited availability of land on which to develop and grow. What alternative uses is the State considering for this vacated land? What proposals are being considered to provide the cities with available adjacent land so that they can grow and prosper?

The availability of land suitable for economic development is an important consideration for the success of any long-term economic strategy. Both Hendry and Glades counties, along with the City of Clewiston, have passed resolutions outlining their needs and desires associated with economic development and the potential U.S. Sugar Corp. acquisition. The SFWMD and State are closely considering the communities' requests, where appropriate, as the potential acquisition is negotiated. In addition, OTTED will work closely with all interested parties regarding the availability of lands as the economic transition process moves forward in a timely manner but after the larger contractual issues are resolved and in place. This will be done, as mentioned, through the REDI process.

What specific initiatives have been committed to the region to ensure the economic stability for these communities during the transition and afterwards? What specific initiatives are being implemented to address the social and psychological impacts of this deal on the communities? What is the precise timeframe of the implementation of these initiatives?

The OTTED's REDI process has identified numerous initiatives and economic opportunities in the region and will continue to work on these issues. Decision-making, development, and implementation of economic strategies will occur with the specific input from those communities affected by the transaction. To expedite the implementation of such strategies once input from the communities is obtained, however, REDI is identifying resources and laying the groundwork for economic redevelopment and expansion, as mentioned above. Focus areas include workforce retention, training and retraining, nature-based tourism, infrastructure improvement, and health and human services.

During the Delegation meeting, Mr. Brill acknowledged that communication between the community and the State was not satisfactory. What exact steps will OTTED take to improve the communication lines between local communities and the State regarding this deal?

Dr. Brill's comments were in response to a specific call for improved communication from the State. OTTED has taken the following significant steps to enhance communication with the communities regarding the economic transition:

- Obtained a primary contact for REDI projects and processes from Hendry and Glades counties, and the Cities of Clewiston, LaBelle, Moore Haven, Belle Glade, Pahokee, and South Bay.
- Sponsored and organized three Town Meetings in the region to provide an opportunity for the communities in the areas affected by the transaction to share recommendations on economic strategies.

In addition, the following items are being addressed for the short-term future:

- Publishing a monthly update to serve the affected communities and to detail REDI projects, local activities and meetings, and contact information.
- Scheduling regular meetings of the REDI membership by video and teleconference to enhance access and participation in the economic transition process.

Does the State have any plans to designate a high-level staff person to assist with the economic impact of this deal?

Dr. Dale Brill, Director of the Governor's Office of Tourism, Trade and Economic Development, is the designated point person regarding the State's involvement in an economic transition strategy for the Glades communities.

In closing, the State of Florida remains strongly committed to restoring America's Everglades as evidenced by its past and present work. The OTTED looks forward to working with the agencies on the economic viability of the communities via REDI, and we appreciate your continued support with the historic federal-state CERP funding initiative to protect this national treasure, America's Everglades.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Sole".

Michael W. Sole
Secretary

cc: Governor Charlie Crist
Members, Florida Congressional Delegation
Dr. Dale Brill, Director, Governor's Office of Tourism, Trade and Economic
Development
Ms. Carol Ann Wehle, Executive Director, South Florida Water Management District